

## **REMARKS**

Reconsideration of this application is respectfully requested. The following remarks are responsive to the Office Action mailed December 12, 2001.

Claims 1-76 are pending in the present application.

Claims 1, 5-9, 13-17, 21-25, 29-33, 37-41, 45-49, and 53-76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,890,138 to Godin ("Godin") and further in view of U.S. Patent No. 5,991,739 to Cupps ("Cupps").

Claims 2-4, 10-12, 18-20, 26-28, 34-36, 42-44, 50-52 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,890,138 to Godin ("Godin") and further in view of U.S. Patent No. 5,991,739 to Cupps ("Cupps").

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)**

Claims 1, 5-9, 13-17, 21-25, 29-33, 37-41, 45-49, and 53-76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,890,138 to Godin ("Godin") and further in view of U.S. Patent No. 5,991,739 to Cupps ("Cupps"). Applicant respectfully submits that Godin and Cupps, taken alone or in combination, fail to teach or suggest the present invention as claimed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the

art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Independent claims 1, 9, 17, 25, 33, 41, and 49 recite, *inter alia*, at least one subcategory field being displayed concurrently with a category field in a display window, the at least one subcategory field containing a plurality of subcategory entries used to categorize an item in a computerized auction. (Emphasis added).

Looking now at the cited references, Godin discloses a system and method for providing rapid feedback of a reverse auction process and for removing a user from the process once an indication to purchase has been received. As stated in the Office Action, Godin fails to teach or suggest at least one subcategory field being displayed concurrently with a category field in a display window, the at least one subcategory field containing a plurality of subcategory entries used to categorize an item in a computerized auction, as claimed in independent claims 1, 9, 17, 25, 33, 41, and 49.

Cupps, the second reference cited in the Office Action, does not remedy any of the deficiencies of Godin. Cupps is cited in the Office Action only for the teaching of a subcategory field being displayed in a display window

concurrently with a category field. Applicant respectfully disagrees for the following reasons.

Cupps teaches a system and method for providing an online ordering machine that manages distribution of home delivered products over a distributed computer system. The online ordering machine provides the customers with product information from various vendors in a particular delivery range or from vendors having take out service within a specified range from the customer's location.

Cupps fails to teach or suggest at least one subcategory field being displayed concurrently with a category field in a display window, the at least one subcategory field containing a plurality of subcategory entries used to categorize an item in a computerized auction, as claimed in independent claims 1, 9, 17, 25, 33, 41, and 49. The paragraphs and figures cited in the Office Action lack the teaching or suggestion of the above limitation. For example, Figures 3A through 3F, and corresponding description at col. 5 line 20 through col. 6 line 16, disclose at most an order database containing multiple tables, which store information related to customers, vendors, and received orders, in respective associated entries. The tables and associated entries are stored in the memory 118 of the online ordering machine 106 and are not displayed concurrently in a display window. *See* col. 4 line 60 through col. 5 line 4. Furthermore, Figure 10, and corresponding description, at col. 9 line 24-34, disclose a menu web page

showing various types of items that a restaurant offers for delivery service, the menu web page being created in response to the customer's request. The menu items shown in Figure 10 are just products available for purchase in a specific category (such as "Pesce Fresco," for example) and cannot be construed as a plurality of subcategory entries used to categorize an item in a computerized auction. Therefore, Applicant submits that Cupps fails to teach or suggest at least one subcategory field being displayed concurrently with a category field in a display window, the at least one subcategory field containing a plurality of subcategory entries used to categorize an item in a computerized auction, as claimed in independent claims 1, 9, 17, 25, 33, 41, and 49.

Furthermore, Godin fails to teach or suggest a combination with Cupps and Cupps fails to teach or suggest a combination with Godin. It would be impermissible hindsight based on Applicant's own disclosure to incorporate the alleged teachings of Cupps into Godin. Moreover, such a combination would still lack the teaching of at least one subcategory field being displayed concurrently with a category field in a display window, the at least one subcategory field containing a plurality of subcategory entries used to categorize an item in a computerized auction, as claimed in independent claims 1, 9, 17, 25, 33, 41, and 49.

Therefore, Applicant submits that claims 1, 9, 17, 25, 33, 41, and 49 are not obvious over Godin in view of Cupps, taken alone or in combination. Claims 5-

8, 13-16, 21-24, 29-32, 37-40, 45-48, and 53-76, dependent directly or indirectly from independent claims 1, 9, 17, 25, 33, 41, and 49, are also distinguishable over Godin in view of Cupps, taken alone or in combination, at least for the same reasons as stated above. Thus, Applicant respectfully requests withdrawal of the rejection and allowance of all claims.

Claims 2-4, 10-12, 18-20, 26-28, 34-36, 42-44, 50-52 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,890,138 to Godin ("Godin") and further in view of U.S. Patent No. 5,991,739 to Cupps ("Cupps"). Applicant respectfully submits that Godin and Cupps, taken alone or in combination, fail to teach or suggest the present invention as claimed.

Claims 2-4, 10-12, 18-20, 26-28, 34-36, 42-44, and 50-52 depend directly or indirectly from independent claims 1, 9, 17, 25, 33, 41, and 49. Pursuant to the above discussion, Godin and Cupps, taken alone or in combination, fail to teach or suggest at least one subcategory field being displayed concurrently with a category field in a display window, the at least one subcategory field containing a plurality of subcategory entries used to categorize an item in a computerized auction, as claimed in independent claims 1, 9, 17, 25, 33, 41, and 49.

As a result, Applicant submits that claims 2-4, 10-12, 18-20, 26-28, 34-36, 42-44, and 50-52 are also distinguishable over Godin in view of Cupps, taken

alone or in combination, and should also be allowed. Applicant respectfully requests withdrawal of the rejection and allowance of all claims.

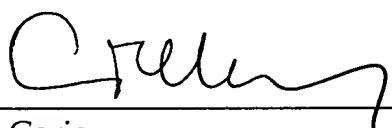
It is respectfully submitted that in view of the amendments and arguments set forth herein, the applicable rejections asserted in the Office Action have been overcome. Accordingly, Applicant requests that pending claims 1-76 be found in condition of allowance.

If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Florin Corie at (408) 947-8200 x206. If there are any additional charges, please charge them to Deposit Account No. 02-2666.

Respectfully submitted,

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